



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 14, 1996

Mr. Jerry E. Drake, Jr.
Assistant City Attorney
City of Denton
215 East McKinney
Denton, Texas 76201

OR96-2112

Dear Mr. Drake:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 102334.

The City of Denton (the "city") received a request for "access to the signed complaint filed with the City of Denton Animal Control Division alleging that the animal at [the requestor's] address is in violation of the City of Denton Animal Control Division Ordinance, Section 6-26 dated Aug. 19, 1996." You assert that the requested information is excepted from required public disclosure under sections 552.101, 552.103, and 552.108 of the Government Code.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). However, information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of an offense report. Section 552.108 provides that you may withhold any remaining information from disclosure, although you may choose to release all or part of the information that is not otherwise confidential by law. Gov't Code § 552.007.

Although the name of a complainant is generally considered to be front page offense report information, you also raise section 552.101¹ in conjunction with the "informer's privilege," which protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided that the subject of the information does not already know the informer's identity. Open Records Decision Nos. 515 (1988) at 3, 208 (1978) at 1-2. The informer's privilege protects the identities of individuals who report violations of statutes to the police or similar law-enforcement agencies, as well as those who report violations of statutes with civil or criminal penalties to "administrative officials having a duty of inspection or of law enforcement within their particular spheres." Open Records Decision No. 279 (1981) at 2 (citing Wigmore, Evidence, § 2374, at 767 (McNaughton rev. ed. 1961)). The report must be of a violation of a criminal or civil statute. See Open Records Decision Nos. 582 (1990) at 2, 515 (1988) at 4-5. However, the informer's privilege protects the content of the communication only to the extent that it identifies the informant. *Rovario v. United States*, 353 U.S. 53, 60 (1957). Thus, you may withhold the identity and any information which would tend to identify the informant under section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Todd Reese
Assistant Attorney General
Open Records Division

RTR/rho

Ref.: ID# 102334

Enclosures: Submitted documents

cc: Mr. Phillip E. Baker
3502 Woodthrush
Denton, Texas 76201
(w/o enclosures)

¹Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."